

**FILED**

JUN 09 2014  
Clerk, U.S. District Court  
District of Montana  
Billings

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
BILLINGS DIVISION

PLAINTIFF: Jerri Tillett

VS

Cause #:

DEFENDANTS: Bureau of Land Management (BLM)  
Interior Board of Land Appeals (IBLA)  
Department of the Interior (DOI)

CV-14-73-BIG-SPW

**REQUEST FOR AN IMMEDIATE PRELIMINARY INJUNCTION (i.e.: STAY/ HOLD) on the PMWHR:**

As the Court can tell, I am pro se. (i.e.: I can't afford a lawyer; and couldn't find a pro bono one either). Therefore I beg the Courts indulgence in the amateurish look of this REQUEST (i.e.: I'm still learning). (NOTE: Pryor Mountain Wild Horse Range (PMWHR).)

I have a current STAY PETITION docketed with the IBLA: Case Number: 2014 -158. (Folder C: Filed with the Complaint.) The Rulings for both the STAY & APPEAL are still Pending: Which means the IBLA still hasn't Ruled on my Constitutionally protected PETITIONS. — [The First Admendment: "**Shall make no law respecting ... to Petition the Government for a redress of grievances.**"] — Therefore my STAY is still Constitutionally valid (no IBLA Ruling yet).

However, the IBLA has the following rules/ regulations in place that have already negated this Constitutionally valid STAY: "*But if the IBLA does not act within 45 days, the decision is deemed final and Tillett has the right to seek judicial review. ... If the Board fails to act on a stay petition within 45 days, the BLM decision then becomes effective.*" --- Please read the enclosed Legal Brief & Folder A. (Filed with the Complaint.) It's explained (and documented) in greater detail there.

The 45 Day Rule expired May 27<sup>th</sup>. As I have yet to receive a Ruling on my STAY: This means the BLM can and will start the Prescribed Fire soon; in violation of my (Constitutionally) valid STAY. As stated in the current Environmental Assessment (EA): "*Typically burning would take place anywhere from MID-JUNE through November 1.*"

**FORMAL REQUEST:**

- (1) **STAY/ HALT ALL UTILIZATION OF PRESCRIBED FIRE UPON THE PMWHR — IMMEDIATELY.**
- (2) **STAY/ HALT ALL UTILIZATION OF PESTICIDES/ POISON'S UPON THE PMWHR — IMMEDIATELY.**

**THE FOLLOWING PARTIES HAVE BEEN SUMMONED & SERVED:**

- (1) **BLM:** Hand delivered: (Ms. Dunnigian) 2021 4<sup>th</sup> Avenue North, Suite 112 – Billings, MT. 59101
- (2) **U.S. ATTORNEY:** Hand delivered: (Ms. Francis) 2601 2<sup>nd</sup> Ave. North – Billings, MT. 59101
- (3) **IBLA:** Certified Return Receipt #: 7012 3050 0000 1210 0804  
(Ms. Goodwin) 801 N. Quincy St.; Suite 300 – Arlington, VA 22203
- (4) **U.S. ATTORNEY GENERAL:** Certified Return Receipt #: 7012 3050 0000 1210 0804  
905 Pennsylvania Ave., N.S.; Room 4400 – Washington, DC 20530

A legal brief is enclosed that explains the rationale for my (Immediate) PRELIMINARY INJUNCTION REQUEST.

Respectfully Requested this 9<sup>th</sup> Day of June, 2014.

*Jerri Tillett*

[ Jerri Tillett  
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continue to violate: To the great benefit of the Executive Branch of the Government.] Please remember: It's our **collective** Civil Rights the Executive Branch of the Government is revoking, with full knowledge and intention. The Executive Branch won't stop, unless the Judicial Branch HALTS this malfeasant process, as this systemic (documented for a decade-Plus) methodology "works-for-them". Therefore the Executive Branch has no incentive to stop their "grab-for-power" (i.e.: Authoritarian Stance) at the expense of "we-the-people" and Judicial Branch.

### **CHOICE:**

**Opening Brief** of #13-35139; page 13: "Choices determine consequences, which is a mechanism that is really impersonal and operates automatically because energy fields are invited in as a consequence of choice. The individual, as a consequence of choices, is like an iron filing whose position in the field is the direct consequence of its own decisions. To accept this reality is simultaneously uplifting and freeing. At the same time, it is frightening and brings about some degree of consternation. Therefore, the only true freedom in the universe is the freedom of choice, which is the gift received by mankind. One then realizes that there is no hand on the tiller but one's own and that "I myself am heaven and hell" (ca. 700+). The acceptance of this overall truth brings the strength of resolve instead of futile wishing.

What really frightens people about spiritual reality is that it confronts one with the reality that their destiny is solely within the power of their own hands. Heaven, like hell, is the result and consequence of one's own choices; therefore, the key to freedom is by the grace of the given karmic inheritance of all mankind by Divine ordinance." — Pages 251-254: Truth vs Falsehood (How to tell the difference) by David R. Hawkins, M.D., Ph.D. (Highly suggested reading.)

Page 33 (**Opening Brief**): "Although integrity and collective intelligence support happiness and survival, they do not guarantee omniscience or immunity from error of defect. Humankind overall is on an evolutionary path, and life on earth is not a celestial realm. The innate value of human life on earth is that it affords maximum opportunity for spiritual growth through the mechanism of **freedom of the will via choice and option**. Thus, human life represents the **maximum opportunity for the transcendence of negative traits and the gain of positive merit**. Acceptance of human limitation, both individually and collectively, allows for forbearance, forgiveness, and compassion rather than condemnation. Human progress is evolutionary, and, therefore, mistakes and errors are inevitable. The only real tragedy is to become older but not wiser." — Page 163; Reality, Spirituality, & Modern Man by David R. Hawkins. (Highly suggested reading.)

"Freedom is an independent inner state, whereas liberty is a consequence of collective social judgments and subject to restriction in order to serve the common good. It is a serious error to confuse the two as all actions and choices have consequences.

**We eventually have to accept responsibility for our choices, decisions, and their consequences.** Every act, thought, and choice adds to a permanent mosaic; our decisions ripple through the universe of consciousness to affect the lives of all. Every act or decision made that supports life supports all life, including one's own. The ripples we create return to us. What previously may have seemed to be a metaphysical statement is now established as a scientific fact.

Everything in the universe constantly gives off an identifiable energy pattern of a specific frequency that remains for all time and can be read by those who know how. Every word, deed, and intention creates a permanent record; every thought is known and recorded forever. There are no secrets, nothing is hidden, nor can it be. Everyone lives in the public domain. Our spirits stand naked in time for all to see. Everyone's life, finally, is accountable to the universe (calibrates as "true" at level 1,000)." — Page 259, Truth vs Falsehood by David Hawkins, M.D., Ph.D. — (All the Bolds are mine.)

Page 10 of REPLY to U.S. Attorneys Brief (#13-35139 – August 2013): "NOTE: There are two possible choices: One is to agree with the DOI (i.e.: The "Status Quo", Case Law, Evasion of Review of Constitutional Issues, Imbedded self-interest with an extremely short-term view, ongoing malfeasance,

etc.). – OR – The other is not to agree with the DOI (i.e.: Protect the Constitution of the United States, our collective Civil Rights, the long-term view, eradicate the **ongoing** maladaptive malfeasance and protect the fundamental PRINCIPLES of this great Nation – in effect our sovereignty.)”

#### **RELATED ACTION:**

As mentioned in the Section titled Nutshell, this DOI Action is part of an **ongoing** (and systemic) malfeasant Pattern that has been documented for over a decade. (NOTE: I’ve been observing, documenting and presenting these malfeasant patterns for two decades. All and sundry have been steadfastly ignoring the same. It is called the “Status-Quo”.)

The Ninth Circuit Court of Appeals #13-35139 is the prior documentation: (Ruling Pending). If this District Court would like to review the documentation concerning the last (illegal) BLM Action on the PMWHR (that led to #13-35139): It is CV-12-87-BLG-RFC. It is located in the archives of this District Courthouse and can be viewed there.

NOTE: Within #13-35139, was argued the Issue of an (**ongoing**) EVASION OF REVIEW OF CONSTITUTIONAL ISSUES (i.e.: another cover-up), LACK OF ACCOUNTABILITY, MALFEASANCE, etc. Please see Folder B: (Filed with Complaint.). The BLM basically argued that a lack of jurisdiction existed within the Judicial Branch of the Government and therefore (this) Federal Court(s) couldn’t exercise its authority to CHECK the Executive Branch of the Government. And that the illegal BLM Action (i.e.: PMWHR Cull) was now MOOT due to the fact that the (illegal) Gather was successfully completed [in violation of my Constitutional protected **STAY** that wasn’t ruled on until several months after the Gather. An **Ongoing** (and intentional) DOI strategy of decade-plus duration. This strategy “works-for-them”.]

As stated on page 7 of REPLY to U.S. Attorneys Brief (August 2013) – #13-35139: “Therefore the statement “... has not asserted a clear basis for jurisdiction in her complaint” is both absurd and fallacious. JT was very clear and direct in the basis of her complaint [i.e.: (**Ongoing**) malfeasance, lack of accountability, ignoring valid issues, violations of the Constitution – First & Fourteen Amendment Rights, etc.] JT thought that the Judicial Branch of the Government was the proper authority and had jurisdiction over all forms of (**ongoing**) malfeasance and Constitutional Issues: Which comprise and constitute the basis for this Case. This has been clearly stated (**ongoing**) throughout the duration of this endeavor.”

“Page 10: “She appears to seek judicial review of agency action where no particular statute provides for federal court review.” Appellants thought (systemic) **ongoing malfeasance** was sufficient reason for “federal court review”: As well as protecting the Constitution of the United States and our collective Civil Rights: As an active **EVASION OF REVIEW OF CONSTITUTIONAL ISSUES (PLUS)** is ongoing. The underlying and fundamental PRINCIPLES are important to us as a Nation, and to our sovereignty.”

I presented the Ninth Circuit Court of Appeals with the evidence that nothing was moot, as the DOI’s strategy intentionally stalled until they could moot everything out – including the Constitution of the United States apparently. (I don’t think the Constitution of the United States, the PRINCIPLES of this great Nation, is an irrelevant and trivial matter: Which the Executive Branch of the Government apparently does.)

Actually a lot was/ is **ongoing**. The evidence in #13-35139 documents the BLM actively violated the Fourteenth Amendment of the Constitution (“Due Process”), in the Spring of 2013, by ignoring their own rules and regulations. (The current EA: The PMWHR Fertility Control EA—2010.) The BLM darted (illegally) mares that the current EA forbids them to dart: “**Mares ages 5-10 would not be treated.**” – (Bold is mine.) – Page 8. This was presented to the Ninth Circuit Court of Appeals in my August, 2013 REPLY to U.S. Attorneys Brief.

Now; the BLM/ IBLA/ DOI is condoning another BLM Action that contains malfeasance. As stated in my (Court) Complaint (CV-12-87-BLG-RFC): “*Malfeasant Behavior Patterns* [i.e.: If a (Action) contains



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*malfeasant activity by the BLM which initiated and conducted said Action (i.e.: Gather) — the resulting (Action) is rendered illegal due to the presence of the imbedded malfeasant behavior. — ONGOING.*" This is unacceptable to me.

**ONGOING MALFEASANT BEHAVIOR PATTERNS:** Another illegal Gather in the Summer of 2012 (condoned and colluded with by this District Court): *"Tillett fails to understand how the DOI and District Court could fail to observe the documented extensive malfeasance that was presented. This has been an ongoing fact(s) during this whole court proceeding and for years prior. Tillett suspects that perhaps, they didn't fail to observe the fact of the extensive malfeasance: The Case Law and: "Status Quo" notwithstanding. This presents all parties with a choice: To choose the "safe path" (i.e.: the "Status Quo") with the embedded malfeasance contained therein. Or the more (politically) risky "path-of-change" which protects the Constitution and our collective Civil Rights (the founding PRINCIPLES). [NOTE: "The cover-up to avoid such accountability is usually successful. ... The problem is that people are tempted by short-term gains reinforced when they repeatedly get away without incident." — Flirting with Disaster]."* — Page 5 of August, 2013 (#13-35139) REPLY.

Page 16 of the same Legal Brief: *"Given the fact that the First Amendment trumps all other laws: When District Court ignored the fact that the DOI violated all three STAYS & APPEALS in the varied methodologies that it did (documented and presented); this PRINCIPLE (i.e.: fact) alone, took precedent over all the previous Case Laws: (i.e.: A fundamental PRINCIPLE.) Therefore, when District Court Dismissed D.C. No. CV-12-87-BLG-RFC as moot, thereby validating the DOI's position, the District Court did indeed collude in the ongoing Evasion of Review of Constitutional Issues with the DOI."*

Page 18 of the Opening Brief of #13-35139: *"District Court was directly responsible for allowing this illegal and unnecessary cull to proceed, when it Denied the TRO & Hearing. (The DOI's malfeasance was rewarded.) ... When the District Court did this; it is tantamount to colluding, encouraging, validating, condoning, complicit and compounding these malfeasant behavior patterns. This is unacceptable to Appellants."*

Then the BLM violated the Fourteenth Amendment ("Due Process") in the Spring of 2013: Mentioned earlier and contained in #13-35139 (i.e.: Illegal Fertility Control).

Now the BLM is proposing a Prescribed Burn & Pesticide utilization (Summer 2014) that contains malfeasance. [And blatantly lying about it to "we-the-people" (i.e.: me); to the IBLA (which is actively colluding/ condoning this malfeasant pattern – Basically another cover-up); and now presented to this District Court (argued below).

#### **CURRENT (ONGOING MALFEASANT) ACTION:**

##### **FOUR CRITERIA:**

The BLM released an EA—Prescribed Burns on the PMWHR March 7<sup>th</sup>, 2014. I STAYED & APPEALED (PETITIONED THE IBLA) in a timely manner. This is IBLA #: 2014 – 158. This is Folder C: Filed with Complaint. I realize that I must meet the FOUR CRITERIA and I have. The detailed account is contained in IBLA #: 2014-158 (Folder C: Please review there). However I will give a brief summary here:

##### **#1 & #3; BOTH HARMS:**

The listed HARMS – (for the sake of brevity) – but argued extensively in IBLA #: 2014 – 158 (Please review there in Folder C):

HARM TO WILD HORSES

HARM TO AIR QUALITY

HARM TO CULTURAL RESOURCES

HARM TO NATIVE AMERICAN RELIGIOUS CONCERNS

HARM TO LANDS/ ACCESS

HARM TO RECREATION

HARM TO WOODLAND/ FORESTRY

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HARM TO ME  
HARM TO "WE-THE-PEOPLE"  
HARM TO BLM/ IBLA/ DOI  
HARM TO RESOURCES  
HARM TO PMWHR

[HARM TO AREAS OF **CRITICAL ENVIRONMENTAL CONCERN (ACEC)**: -- **HARM TO WILDERNESS (WSA's)**:  
-- **HARM TO WILDERNESS CHARACTERISTICS** -- **HARM TO VISUAL RESOURCE MANAGEMENT**:  
(PMWHR) "*landscape attains a Scenic Quality Classification of "A", the highest there is.*" ]

[**HARM TO THREATENED, ENDANGERED, OR CANDIDATE PLANT SPECIES**: -- **HARM TO VEGETATION (INCLUDING SPECIAL STATUS PLANT SPECIES)**: -- **HARM TO THREATENED, ENDANGERED, OR CANDIDATE ANIMAL SPECIES (COMBINED WITH) SPECIAL STATUS SPECIES OTHER THAN LISTED SPECIES**:"]

[**HARM TO SOILS**: POTENTIALLY EXTENSIVE SOIL ERROSION: --- **HARM WITH INVASIVE, NON-NATIVE WEED SPECIES**: THAT WILL PROLIFERATE DUE TO THE EXTENSIVE SOIL ERROSION & DEVASTATED LANDSCAPE. NOTE: Which the BLM will then "control" with extensive **PESTICIDES/ POISONS**. (In effect, making the situation even worse than the original existing conditions.)]

#2; SUCCESS ON MERITS:

As stated in IBLA #: 2014 -158 (page 11): "*The 2009 Herd Management Area Plan (HMAP) process was begun around the year 2000 and was finalized in the years 2008-2009. The BLM states the following concerning the 2009 HMAP: (Page 1): "The EA is tiered to the 2009 Pryor Mountain Wild Horse Range/ Territory EA (MT-010-08-24) and Herd Management Area Plan (HMAP) ... and incorporates by reference all the descriptions of the affected environment and impacts analyzed in the 2009 HMAP and EA and subsequent Finding of No Significant Impact (FONSI) and Decision Record (DR)."*

Page12: "*I've always maintained the HMAP contained malfeasance (read any of the IBLA: 2008-226/267 or 2009-302/319 Court Cases). And since this Prescribed Burn 'IS TIERED TO THE 2009 (PMWHR)/ territory EA (MT-010-08-24) and Herd Management Area Plan (HMAP)' it too contains malfeasant aspects. I've also observed some (ongoing) lying contained in this EA & FONSI/DR.*

*Basically: I'd advise this IBLA Court to be conservative and put this Prescribed Fire (Issue) in abeyance (as a valid option) for the PMWHR. Essentially – to take this option "off the books" in relation to the PMWHR."*

Also include the next Section in your deliberations. It concerns the malfeasance that is embedded within the current EA & FONSI/DR: Which is very much a consideration in this REQUEST for a PRELIMINARY INJUNCTION . As this Request has very much to do with the current EA & FONSI/DR.

#4; PUBLIC OPINION:

Page 14 of IBLA #: 2014 – 158: "*This translates that the majority of the comments had, at the very least, some reservations about the BLM Prescribed Burn Plan for the PMWHR. (Half were outright in opposition). ... I would say the Public Interest favors granting the Stay: Basically the conservative & cautious approach is ultimately the best."*

THE CURRENT EA – PMWHR PRESCRIBED FIRE (2014) -- & MALFEASANT ASPECTS:

The current EA contains lying (i.e.: malfeasance), in some cases unmistakable; and violations of law/ rules & regulations. This is explained below:

## NOPA:

This is a violation of law/regulations as well as another instance of unmistakable lying (with forethought). [NOTE: It's also another EVASION OF REVIEW in progress.] And it's supported and condoned by the IBLA as well: No Ruling yet.

The BLM states (page 5 of BLM's Response): *"Appellant claims she was harmed because she did not receive BLM's Notice of Proposed Action (NOPA). ... BLM is REQUIRED TO NOTIFY INTERESTED PARTIES of proposed actions on WSAs within their jurisdiction. ... Although Appellant was not on the list of organizations who received the NOPA, ... BLM IS UNAWARE OF ANY WRITTEN REQUEST FROM Appellant to receive notices of proposed actions affecting WSAs, and it should not be required to anticipate Appellant's needs and wants. Nonetheless, she availed herself of the opportunity to comment (although she offered no substantive comments). It is clear that Appellant was not harmed by her failure to receive a NOPA in this case."* — (Bold is mine.)

\*\*\*\* (Unmistakable) LIE #1: *"BLM IS UNAWARE OF ANY WRITTEN REQUEST FROM APPELLANT TO RECEIVE NOTICES OF PROPOSED ACTION AFFECTING WSAs."* — When Dunnigian (BLM lawyer) wrote that, she had already received my IBLA #: 2014-158 STAY & APPEAL. In that document ATTACHMENT #1 was an excerpt from IBLA #: 2009 – 302 (six years ago & a court case; that one would think would be taken seriously) and it states: *"KEPT-IN-THE-LOOP: For years now; various Agencies have been informed, verbally by me, that I wish to BE APPRISED OF ANY & ALL PROJECTS/ "ACTIONS"/ "HAPPENINGS" ... WHATEVER THEY ARE; that are under consideration by the varied agencies. Since I'm a local landowner, whatever actions "they" take, affects me directly. And that I WISH TO BE INFORMED SOONER THAN LATER. BASICALLY: I WISH TO BE "LEPT-IN-THE-LOOP". ... And being "kept-in-the-loop" is what I thought the BLM Mailing List was all about."* She was Responding to my Opening Brief (the STAY & APPEAL); which one could assume had been read before being Responded to. [LYING to protect an active cover-up that's in progress.]

NOTE: The BLM's proclivity to intentionally avoid notification of me (then lie about it) is routine. This is not an isolated case. A documented prior case: 2009 – *"Why wasn't I informed about the [legally mandated] Helicopter Meeting that was being held that very evening/ The Mailing List/ etc.. His answer was to the effect that the BLM never contacted me because the BLM didn't 'have to contact me, as this is not an action'.* — Another BLM LIE & COVER-UP. (Please read "Kept-in-the-Loop": Folder D.)

\*\*\*\* (Subtle) LIE #2: *"Although Appellant was not on the list of organizations who received the NOPA."* --- I fully expect the BLM to excuse the obvious LIE #1 by saying I wasn't on "the list". Which it did: *"She claims to be an interested person, but she fails to allege that she requested notice about action affecting WSAs; instead she alleges only the BLM should know this from her past interest in the PMWHR and as a landowner and stakeholder."* — Page 5 of BLM's Answer (April 28, 2014).

Add to that subtle LIE the following BLM statements: *"Nonetheless, she availed herself of the opportunity to comment. (Dunnigian response in the NOPA Section of her legal brief.) ... See EA at Chapter 6 for a summary of comments and responses."* — Combined with — *"There was one Freedom of Information Act (FOIA) request received, that will not be addressed as a comment."* (BLM EA statement at Chapter 6.) — Basically: The BLM (intentionally) LIED to hide my legitimate Comments from Public view in the Prescribed Fire EA. (Please review my Comment Section below.) Then their lawyer had to "out" this BLM malfeasant former LIE & cover-up (and admit I did indeed Comment) in order to protect the BLM from the greater harm of **BLM'S VIOLATION OF NOPA**. [In essence: There was a cover-up (when the BLM hid my comment and lied about it) and a second cover-up is in progress to rectify an even bigger BLM debacle: A NOPA VIOLATION.]

A question for District Court: How could I place myself on a list that I didn't even know existed, until this Court Case? (Basically after the fact!) As the BLM states: (I) *"should not be required to anticipate (BLM'S/ DOI's) needs and wants."*



\*\*\*\* (Intentional) LIE #3: *"It is clear that Appellant was not harmed by her failure to receive a NOPA in this case."* --- I'M A LOCAL LANDOWNER LIVING RIGHT NEXT TO THE PMWHR! (Tillett's -- my family -- were instrumental in the creation of the PMWHR: The First in the Nation. The PMWHR was our BLM Lease! Etc.) All of this is well known to the BLM/ IBLA/ DOI. Whatever the BLM does on the PMWHR affects me as I'm downslope/ downstream. [P.S.: Shit travels downhill and I seem to always be located at the very bottom of this pile. And if you think I'm over reacting: Be informed there is a Malicious Prosecution (of me) of a decade duration -- in which the BLM was a central player -- buried at the bottom of this malfeasant mess!]

\*\*\*\* (Unmistakable) LIE #4: *"Nonetheless, she availed herself of the opportunity to comment (although she offered no substantive comments)."* -- So *"I wish to be apprised OF ANY & ALL PROJECTS/ "ACTIONS"/ "HAPPENINGS" ... WHATEVER THEY ARE, that are under consideration ... I wish to be informed SOONER than LATER. BASICALLY: I WISH TO BE "KEPT-IN-THE-LOOP."* -- Page 18 of IBLA #: 2009-302 is considered *"no substantive comments"*. -- Dunnigian/ BLM is stating my IBLA Court Case(s) is basically shit. [And exposing this ongoing EVASION OF REVIEW in progress is also *"no substantive comments"*: according to the BLM.]

Same with my exposing the BLM's (routine) cover-ups & lies: *"This is my OFFICIAL COMMENT ON THE PRESCRIBED FIRE and If and when the BLM fails to include this comment with the other comments: I shall note in future documents."* --- Also shit; as in *"no substantive comments."*

\*\*\*\* VIOLATION OF LAW/ REGULATION: *"BLM IS REQUIRED TO NOTIFY INTERESTED PARTIES OF PROPOSED ACTIONS ON WSA's WITHIN THEIR JURISDICTION."* ---That's a pretty straight forward statement: And the BLM didn't notify me. [And I have DEMANDED notification of ANYTHING(!) that pertains to the PMWHR. This is of decades standing. The BLM is well aware of this. Dunnigian (BLM's lawyer) is less than straightforward here when she states: *"BLM is unaware of any written request from Appellant"*; hoping the Judiciary will agree with this fraudulent legal argument. At best, this is a case of *"white-washing"* (to protect another Evasion of Review) and at worst flat-out LYING. Either way: It's an active cover-up attempt and a VIOLATION OF NOPA.] These cover-ups are an intentional move on the part of the BLM (observed and documented) and of decade's duration. (NOTE: *"The cover-up to avoid such accountability is usually successful."* -- *Flirting with Disaster* by Gerstein & Ellsberg.

Basically: As mentioned previously, this District Court is witness to another ongoing EVASION OF REVIEW (i.e.: cover-up) in progress. Please see Folder D: (Filed with Complaint.)

#### MIGRATORY BIRD TREATY ACT:

##### BLM's ANSWER:

Page 6 of BLMs Answer (To my Appeal -- April 2014) BLM states: *"Mere disagreement without an affirmative showing the BLM failed to consider a substantial environmental question of material significance is insufficient to prevail on an appeal. The BLM's EA and FONSI/DR show that a careful review of environmental problems has been made, relevant environmental concerns have been identified, and the final determination is reasonable. ... Based on the analysis and consideration of potential environmental impacts ... the Field Manager found that the impacts were not significant. ... Appellant fails to show that BLM's decision was erroneous. Appellant must present more than general, unsubstantiated opinions about BLM's analysis or expert conclusions. She must show either legal or factual error in the analysis and FONSI. ... "The fact that an appellant has a differing opinion about likely environmental impacts or prefers that BLM take another course of action does not show that BLM violated the procedural requirements of NEPA."* --- (Bold is mine.)

[NOTE: A very short Summary: This is another EVASION OF REVIEW in progress.]

##### NEOTROPICAL MIGRATORY BIRD USE:

Page 45 of the BLM's EA: *"Neotropical migratory bird use is heaviest during spring and summer months. Nesting usually occurs in late May, June, and early July depending on elevation. There is a diverse array of migratory birds that use the project area. ... One sensitive species of migratory bird in or*

near the project area, the Clark's Nutcracker (*Nucifraga Columbiana*). This species is very common throughout the mid to upper elevations of the Pryor Mountains, including the project area. There is a Peregrine Falcon (*Falco peregrinus*) aerie near the southeast corner ... The Peregrine is a BLM sensitive species. ... Wildlife habitat associated with the project area is a mosaic of high quality areas."

Page 6: "The hazardous fuels reduction/ forest health activities would potentially occur on an annual basis as long as the 2009 HMAP is the guiding document for the area." --- (Page 7): "Typically burning would take place anywhere from MID-JUNE THROUGH NOVEMBER 1."

#### MIGRATORY BIRD TREATY ACT:

Establishment of a FEDERAL PROHIBITION to "pursue, hunt, take, capture, kill, attempt to take, capture or kill ... any migratory bird, included in the terms of this Convention. ... for the PROTECTION OF MIGRATORY BIRDS ... OR ANY PART, NEST, OR EFFECT OF ANY SUCH BIRD."... Authority for Interior officials to enforce the provisions of this law ... The 1974 Statue: "An Act to give effect to the conventions between the U.S. and OTHER NATIONS FOR THE PROTECTION OF MIGRATORY BIRDS, BIRDS IN DANGER OF EXTINCTION, game mammals, AND THEIR ENVIRONMENT. ... FOR THE PRESERVATION AND MAINTENANCE OF MIGRATORY BIRD STOCKS. ... WILL TAKE MEASURES TO PROTECT IDENTIFIED ECOSYSTEMS OF SPECIAL IMPORTANCE TO MIGRATORY BIRDS AGAINST POLLUTION, DETREMENTAL ALTERATIONS, AND OTHER ENVIRONMENTAL DEGRATIONS."

#### FONSI/DR:

Page 6 of the FONSI: "10) **Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment.** The Proposed Action would **NOT VIOLATE OR THREATEN TO VIOLATE ANY FEDERAL, STATE, OR LOCAL LAW OR REQUIREMENT IMPOSED FOR THE PROTECTION OF THE ENVIRONMENT.**" -- (Some of the Bold is mine. The rest is the BLM's.)

Page 7 of the DR: "This decision constitutes my final decision to implement prescribed fire within the project area in the PMWHR."

\*\*\*\* (Unmistakable) LIE #1: "Mere disagreement ... found that the impacts were not significant. ... fails to show that BLM's decision was erroneous. Appellant must present more than general, unsubstantiated opinions about BLM's analysis." --- As far as the BLM is concerned this VIOLATION OF INTERNATIONAL LAW is just a "mere disagreement ... (no) more than general, unsubstantiated opinions". Easily dismissed, with a casual wave of the BLM hand.... Pufffed! (I wonder if Mexico, one of the signing Nations, would agree with the BLM's casual assessment?)

I discussed the MIGRATORY BIRD TREATY ACT at great length in my Legal Brief(s): Page 3-4 of my REPLY to BLMs Response to STAY. (Please review there.) -- Page 4: (In relation to the MIGRATORY BIRD TREATY ACT) "Translation: How many thousands-millions of dollars would the BLM be liable for (after prescribed burns in the PMWHR -- 'There is a diverse array of migratory birds that use the project area'), when challenged in Court again? Think about it."

\*\*\*\* (Unmistakable) LIE #2: "The BLM's EA and FONSI/DR show that a careful review of environmental problems has been made ... and the final determination is reasonable ... found that the impacts were not significant." --- BLM (and IBLA) are still (routinely) ignoring the fact that the MIGATORY BIRD TREATY ACT (International Law) exists, was brought to their attention by me, and applies here. ["And now the U.S. Government is proposing (in all seriousness) to burn down 6,200 acres (a whole ecosystem) of 'Neotropical migratory bird use. ... INTERESTING." ] Question: Is protecting this cover-up (the malfeasance "Status-Quo") worth the risk of creating a (possible) International Incident?

\*\*\*\* VIOLATION OF INTERNATIONAL LAW (MIGATORY BIRD TREATY ACT): "She must show either legal or factual error in the analysis and FONSI ... **DOES NOT SHOW THAT BLM VIOLATED THE PROCEDURAL REQUIREMENTS OF NEPA.**" --- BUT I DID! And (as usual) the BLM/ DOI is flat-out LYING about it to "we-the-people" (i.e.: me): IBLA (and they are colluding and condoning -- failure to Rule -- this malfeasance as it "works-for-them"): And (now) to this Branch of the Judicial Government. The LIE is an active attempt



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to cover-up this VIOLATION OF INTERNATIONAL LAW. (*"The cover-up to avoid such accountability is usually successful."*)

\*\*\*\* **VIOLATION OF NEPA:** When the BLM/ IBLA/ DOI violates the MIGRATORY BIRD TREATY ACT with full knowledge; they do so knowing that the parameters of NEPA were also violated. And another lie utilized to COVER IT UP.

**IRONY:** "*Authority for Interior officials to enforce the provisions of this law.*" – And yet it is these very same "*Interior officials to ENFORCE THE PROVISIONS OF THIS LAW*" that are going to VIOLATE THIS INTERNATIONAL LAW with full knowledge and foresight. In effect: It is the enforcers of this law that are going to intentionally break this law. Would this come under the label of corruptibility? [Definition: CORRUPTIBILITY: "*The possibility of being corrupted.*" – CORRUPTED: "*tainted; infected with errors.*" – TAINTED: "*a stain; a blemish on reputation.*" -- Webster's Dictionary.]

#### NO UNRESOLVED ISSUES:

The BLM states (again) on page 5 of the current (2014) FONSI: "*No unresolved issues were raised following public notification of the proposed prescribed fire.*" — Please see Folder D.

Another, **ONGOING (unmistakable) LIE**. This particular lie has been included in my Court Cases (something like seven of them) since 2008. (Please see Folder D.) I have been steadfast in calling everyone's attention to it: And the fact that it's an obvious lie. It's been in IBLA Court Cases, this District Court, and now it's in the Ninth Circuit Court of Appeals. Here it is, back in District Court again. No one – except perhaps me – has held the DOI accountable (i.e.: Documented Lack of Accountability) for this bald-faced lie: Not Judges, not Directors of Agencies (please review the next section), not the Media; No one that I've made aware of this. And if you want to see what "*NO UNRESOLVED ISSUES*" looks like; please review Folder B: My Appellant's Informal Brief– #13-35139. I'd submit those are pretty serious "*no unresolved issues*"!

The reason the BLM can continue to pursue this obvious lie (successfully) is because the Executive Branch of the Government seems to feel that this Judicial Branch has no jurisdiction over the (errant) Executive Branch. [i.e.: (Page 12, #13-35139, Answering Brief of the BLM): "*Mootness goes to the issue of jurisdiction. The exercise of judicial power under Article III, Section 2, of the Constitution provides the courts with jurisdiction over a dispute only if an active case or controversy exists.*" – (Bold is mine.)

Question to District Court: Does this Court (again) agree with the BLM/ IBLA/ DOI that there are "*no unresolved issues*"? That the (**ONGOING**) Issues mentioned in my Appellant's Informal Brief (#13-35139) – EVASION OF REVIEW OF CONSTITUTIONAL ISSUES, LACK OF ACCOUNTABILITY, MALFEASANCE, VIOLATIONS OF THE CONSTITUTION AND OUR (**collective**) CIVIL RIGHTS, AUTHORITARIAN & CONTROL ISSUES (of the Executive Branch), etc. – are solved issues?

#### WHEN THE LEADERS ARE THE PROBLEM:

(Daniel Ellsberg; Afterword) – Flirting with Disaster: "*I have come to believe that the most dangerous practices in the national security realm reflect priorities, in general, that are set by top officials: getting reelected, avoiding condemnation for past actions, or other political or bureaucratic objective. Those priorities generally take great precedence over safety or preventing public harm.*

*The behavior of the people down below in the hierarchy is generally responsive to those priorities. ...*

*The most promising solution – in the case of government – is going back to the system that our founders set up. It obviously didn't provide any guarantee, but it was an ingenious system of confronting men of power with other men of power within the system. Checks and balances; investigative powers of Congress, with subpoenas; investigators with some degree of independence from the president; **AN INDEPENDENT JUDICIARY.**" – (Bold is mine.)*

Please read the rest of the Afterword in Folder E: (Filed with Complaint.).

Also included in Folder E are four letters, recently sent to the following: President Obama; Ms. Jewell (Secretary of the Interior); Ms. Goodwin (Director of the IBLA); and Ms. Connell (Montana State Director

of the BLM: She received the whole IBLA 2014-158, as she is the third party.). I asked each to intervene and TAKE RESPONSIBILITY FOR THE LACK OF ACCOUNTABILITY! So far, no luck.

(Analysis of) MS. GOODWIN (DIRECTOR OF THE IBLA):

Ms. Goodwin states: *"The letter makes it apparent that you feel aggrieved by the BLM decision, but contains no reason why I should intervene in the matter. Since I perceive no reason to intervene, I will not do so, and your case will continue to be pending at IBLA."* – (Bold is mine.) Please review in Folder E.

It is true that she has the prerogative to say no; which she utilized.

\*\*\*\* **First Mistake:** She blames me for HER refusal to address serious ISSUES LISTED IN THE LETTER.

\*\*\*\* **(Unmistakable) LIE:** *"But contains no reason why I should intervene in the matter."* --- It states in the letter – in bold face – UNACCOUNTABILITY, (Systemic) MALFEASANCE, IGNORING VALID PUBLIC ISSUES, CIVIL RIGHTS VIOLATIONS, CONSTITUTIONAL ISSUES, and "DUE PROCESS" VIOLATIONS. [Remember the BLM has consistently maintained the OBVIOUS LIE (for years now): *"No unresolved issues"* and it seems Ms. Goodwin agrees with this assessment. (Authoritarian Stance.)]

Also included in the letter was a "snippet" of IBLA #: 2014-158 wherein it states: *"As stated in #13-35139 (Appellant's Informal Brief): 'What are the facts of your case? ... (1) Evasion of Review of Constitutional Issues: (Plus the Evasion of other issues as well – including ongoing malfeasant issues. – (2) Violations of the Constitution: (A) First Amendment – (Right to Petition) - & - (B) Fourteenth Amendment – (Due Process Clause) – (3) Lack of Accountability: ... --- (4) Documented (ongoing) malfeasant: Varied. (i.e.: Lying, 'cook'n-the-books'; collusion in cover-ups; condoning/ protecting the ongoing malfeasant; Due Process violations, manipulating data, etc.) ... -- (8) Underlying Control/ Authoritarian Issues (by the DOI) are: in-play' here."*

None of these issues seemed to worry Ms. Goodwin, the Director of the IBLA, at all. It seems that the Executive Branch of the Government isn't all that worried about the authority (jurisdiction) of the Judicial Branch of the Government (relative to the Executive Branch). The Judicial Branch "rubber stamps" the current (malfeasant) "Status Quo"; which is whatever the Executive Branch decides it is. This was observed and documented (and sent on to the Ninth Circuit Court of Appeals for a Ruling -- Pending). The last time I was in this District Court and asking for a Preliminary Injunction on an equally malfeasant (& illegal) BLM Action, this District Court supported the current (malfeasant) "Status Quo" (i.e.: the DOI). Does the District Court still choose this (malfeasant) "Status Quo" (i.e.: Agree with the DOI)? – OR – Does this District Court choose to not agree with the DOI (i.e.: PROTECT the Constitution and our **collective** Civil Rights.)? This is a definite "Choice Point" for this District Court (again).

MY COMMENT ON THE PRESCRIBED BURN:

My Comments on the Proposed BLM Prescribed Burn: *"Official Prescribed Fire (Draft EA) Comments: The following are my current comments concerning your Draft Prescribed Fire EA: ... I have steadfastly been OPPOSED TO PRESCRIBED FIRE ON THE PMWHR FOR OVER A DECADE (and the BLM is well aware of this fact). Please see the enclosed attachment. And the BLM is also aware of the fact that I stated a decade ago that I am fully prepared to go into Court to argue this OPPOSITION. It still stands. The BLM has on record some of my reasoning as to my OPPOSITION TO PRESCRIBED FIRE ON THE PMWHR. And why: As recently as this Spring (2013) ... EIS COMMENTS. ... This is my OFFICIAL COMMENT ON THE PRESCRIBED FIRE and if and when the BLM fails to include this COMMENT with the other COMMENTS: I shall note in future documents."* --- The full letter can be found in Folder F: (Filed with Complaint.)

The BLM's quote concerning my Prescribed Burn Comments; Page 47 of the current EA: *"There was one Freedom of Information Act (FOIA) request received, that will not be addressed as a comment but responded to under the FOIA process."* --- Thereby (again) hiding my presence from Public view (i.e.: An active cover-up) and LYING about it. [i.e.: Both are ongoing malfeasant behavior patterns.] There by stating that my legitimate Comment wasn't a Comment, but ONLY a FOIA.

Dunnigian (BLM's lawyer) states this; page 3 of BLM'S Answer (April 28, 2014): *"Appellant filed her comments on October 9, 2013. ... Appellant commented that she has been steadfastly opposed to*

prescribed fire on the PMWHR for over a decade. ... See EA at Chapter 6 for a summary of comments and responses." -- & -- Page 5: "She did receive notice of the availability of the draft EA and the opportunity to comment **as a person interested in the management of the PMWHR**. BLM is unaware of any written request from Appellant to receive notices of proposed actions affecting WSAs, and it should not be required to anticipate Appellant's needs and wants. Nonetheless, she availed herself of the opportunity to comment (**although she offered no substantive comments**)."

Page 5 of the FONSI: "No unresolved issues were raised following public notification of the proposed prescribed fire."

\*\*\*\* (Unmistakable) LIE #1: BLM stated in the EA: (FOIA) "There was one ... that will not be addressed as a comment." --- Dunnigian (BLM's lawyer) states: "Appellant filed **her comment** on October 9, 2013." -- It was a valid Comment (and recognized as such by the BLM's own lawyer) that was protected under the Constitution; freedom of speech: Which the BLM hid from Public view (active cover-up) and the BLM LIED about it. Remember the BLM actively solicited our Comments: "were made available for a 30 day comment period."

NOTE: Dunnigian (BLM's lawyer) states: "See EA at Chapter 6 for a summary of comments and responses." -- But you won't find my (legitimate) comment there, because the BLM insists that it isn't a comment, merely "one Freedom of Information Act (FOIA) request received, **that will not be addressed as a comment but responded to under the FOIA process**." -- (Routine) COVER-UP & LIE -- ["If and when the BLM fails to include this comment with the other comments: I shall note in future documents." -- Part of my "OFFICIAL COMMENT(S) ON THE PRESCRIBED FIRE."]

\*\*\*\* LIE #2: "Although she offered no substantive comments." -- And this was my reply (page 4 of Reply to BLM's Response to my Appeal (May 2014): "She availed herself of the opportunity to comment": Which I certainly did. And what did I say? "And the BLM is also aware of the fact that I stated a decade ago that I am fully prepared to go into Court to argue this OPPOSITION. **It still stands**." I gave the BLM/IBLA/DOI fair warning. The fact that it was IGNORED (per the usual) "Status Qua", is not my fault. So when the BLM states "although she offered no substantive comments." Isn't the BLM **still LYING**. I think that statement by me was pretty substantive. [Definition: SUBSTANTIVE: "Expressing existence; independent; real. -- SUBSTANTIAL: 'Actually existing; real, solid; strong.' --- Webster's Dictionary.] And here I am; back in Court just like I promised I would be.

NOTE: I stated: "This is my OFFICIAL COMMENT ON THE PRESCRIBED FIRE and if and when the BLM fails to include this COMMENT with the other COMMENTS: I shall note in future documents." -- For the District Court: The BLM's COVER-UPS & LIES of my Official Comments is so intentional and routine now (for years), that I can pretty much anticipate it. Also; I think that statement is a pretty substantive comment, don't you? -- [BLM is aware of their malfeasant behavior and refuses to change: It "works-for-them" in the short-term; as I'm considered a "trouble-maker".]

NOTE: The BLM had (and still has) absolutely no reason to doubt that substantive statement of mine: About going into Court. After all; I have spent over a decade (extensively) in Court with the BLM. And, this is the ONLY time I've warned the BLM ahead of time that I'd go to Court in opposition to the BLM's stance. The same with my "if and when the BLM fails to include" Comment: I was warning the BLM that I'd (again) document and expose their routine LIE & COVER-UP. And the BLM had (and still has) no reason to doubt that I'd carry through with my warning: As I always have. [You can tell how arrogant & confident the BLM is that they'll never be held accountable for their routine malfeasance.]

\*\*\*\* (Unmistakable) LIE #3: "No unresolved issues were raised following public notification of the proposed prescribed fire." -- Therefore the BLM is stating that my substantive comments ("I stated a decade ago that I am fully prepared to go into Court to argue this opposition. It still stands. ... If and when the BLM fails to include this comment with the other comments: I shall note in future documents."); and the issues (and opposition) that I have paper-trailed (for years) are all resolved? If they are resolved; why am I in this Court (again)?



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\*\*\*\* THE COLLECTION OF LIES (& COVER-UP) COMBINED: "No unresolved issues were raised following public notification of the proposed prescribed fire.": UNMISTAKABLE (Long-term) LIE – Combined with – "Appellant filed her comments on October 9, 2013.": TRUE (Public Notification) – Combined with – "There was one Freedom of Information Act (FOIA) request received, that **will not be addressed as a comment.**": COVER-UP & LIE – Combined with – "If and when the BLM fails to include this comment with the other comments: I shall note in future documents.": TRUE (Anticipating the BLM COVER-UP & LIE) – Combined with – "**BLM is unaware of any written request from Appellant**": LIE (TO FACILITATE THE COVER-UP IN PROGRESS) – Combined with – "(although she offered no substantive comments).": LIE.

All of these combined EQUALS: This is an active (ongoing) **EVASION OF REVIEW** in progress (i.e.: Several cover-ups being piled one on another.)

Question to District Court: Are you going to hold the BLM/ IBLA/ DOI ACCOUNTABLE FOR THESE OBVIOUS VIOLATIONS AND (**ONGOING**) MALFEASANCE? (And issue a PRLIMINARY INJUNCTION (STAY/ HOLD) against Prescribed Burns & Pesticides/ Poison utilization upon the PMWHR --- A.S.A.P.)

### STAY

As stated in October, 2012 (STAY Request): "The Defendant will cease **ALL** Actions (Culls, PZP, etc.) upon the PMWHR wild horses (i.e.: Leave them entirely alone, and the predator populations as well) until an ... Investigation. ... The PMWHR shall **remain without ACTIVE BLM MANAGEMENT** of the wild horses until this is completed. .... The Defendants can conduct improvements upon the PMWHR such as uncovering water sources that the BLM has previously co-opted, creating new ones, removing illegal fences, expanding the PMWHR, and such. (NO new fences!). But the wild horses themselves will be left entirely alone! (And the predator populations --- **SUCH THAT THIS ECOSYSTEM CAN REBALANCE ITSELF AFTER HUMANITIES INTERFERENCE.**"

#13-3S139 (August REPLY): The following is my current STAY Request that is currently in front of the Ninth Circuit Court of Appeals for consideration --- Ruling Pending. "**(2) STAY UPON THE PMWHR: ... This STAY (HOLD) will be in effect from the point of Judicial Order, throughout the Investigation, and until another (positive) "win/win" solution course-of-action is decided upon.**"

Please review Folder B for the details.

Basically I'm asking this District Court to include **PRESCRIBED FIRE** and the utilization of **PESTICIDES/ POISONS** (on the PMWHR) to be "included" within my October 2012 definition of the STAY: To immediately institute a PREMILINARY INJUNCTION (STAY/ HOLD) on the PMWHR to that effect. The DOI's Prescribed Burn can start as early as (this) mid-June: ("Typically burning would take place anywhere from **MID-JUNE** through November 1." -- Page 7 of the EA.)

When I wrote that STAY Request in 2012 I was unaware of Prescribed Burns & Pesticides; as I would have included them in the prohibitions. I did state "can conduct improvements upon the PMWHR". HOWEVER I also made clear "**SHALL REMAIN WITHOUT ACTIVE BLM MANAGEMENT ... SUCH THAT THIS ECOSYSTEM CAN REBALANCE ITSELF AFTER HUMANITIES INTERFERENCE.**"

I realize that the BLM would argue (vigorously) that Prescribed Burns and Pesticide utilization within a Wilderness Area/ Area of Critical Environmental Concern with a class A visual landscape; "chock-a-block" full of sensitive & endangered species of plants and animals with migratory birds throughout, was an improvement. HOWEVER, I wrote the STAY Request, and I know damn-well what I meant.

### FORMAL REQUEST:

- (1) **STAY/ HALT ALL UTILIZATION OF PRESCRIBED FIRE UPON THE PMWHR --- IMMEDIATELY.**
- (2) **STAY/ HALT ALL UTILIZATION OF PESTICIDES/ POISION'S UPON THE PMWHR - IMMEDIATELY.**

Respectfully Requested this 6<sup>th</sup> day of June, 2014;

*Jerri Tillett*

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